

Craig W. Broadbent, #029032
Lisa M. Hanger, #031123
SADDLEWORTH LAW, PLLC
4742 N 24th St., Suite 300
Phoenix, AZ 85016
Office: (480) 522-2080
CraigB@SaddleworthLaw.com
Attorneys for Plaintiff CPS

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

CREATIVE POWER SOLUTIONS, an | Case No. _____
Arizona corporation,

Plaintiff.

COMPLAINT

ENERGY SERVICES GROUP, an Arizona limited liability company; INNOVATIVE ENERGY, and Arizona limited liability company; BRENT GREGORY and MARIA GREGORY, husband and wife; CHRISTOPHER BONILHA and JANE DOE BONILHA, husband and wife; EVELYN ANCHESCHI and JOHN DOE ANCHESCHI, wife and husband; BRENT ALLEN GREGORY AND MARIA ROSARIO GREGORY, AS TRUSTEES OF THE MONTALDEO REVOCABLE TRUST ESTABLISHED ON JULY 25, 2012; DOES I through X; and ROE CORPORATIONS I through X, inclusive,

Defendants.

Plaintiff Creative Power Solutions (“Plaintiff” or “CPS”), by and through undersigned counsel, hereby files its Complaint against Defendants Energy Services

1 Group, LLC (“ESG”), Innovative Energy, LLC (“Innovative”), Brent Gregory and Maria
2 Gregory (“Gregory”); Christopher Bonilha (“Bonilha”); Evellyn Ancheschi (“Ancheschi”)
3 and Brent Allen Gregory and Maria Rosario Gregory, as Trustees of the Montaldeo
4 Revocable Trust established on July 25, 2012 (“Montaldeo”), collectively Defendants
5 (“Defendants”), and hereby alleges as follows:

6 **PARTIES**

7 1. Plaintiff is an Arizona corporation doing business in Maricopa County,
8 Arizona. Plaintiff is engaged in interstate commerce. It is a research and developmental
9 engineering group specializing in combustion and provides energy solutions to companies
10 around the world.

12 2. Upon information and belief, at all times relevant to the allegations in this
13 Complaint, Defendant ESG was an Arizona limited liability company. Upon information
14 and belief Defendant ESG (as it is known by that name) is no longer active in the State of
15 Arizona.

16 3. Upon information and belief, Innovative Energy is an Arizona limited
17 liability company, active in the State of Arizona. Upon information and belief, Defendant
18 Innovative Energy, LLC is the alter ego of Defendant ESG, because ESG changed its name
19 to Innovative Energy, LLC with the Arizona Corporation Commission in July 2019.

21 4. Upon information and belief, Defendant Brent Gregory is an individual
22 residing in Maricopa County, Arizona.

23 5. Upon information and belief, at all times relevant to the allegations in this
24 Complaint, Defendant Brent Gregory was an individual doing business in connection with

1 his management interest in Defendants ESG and/or Innovative and received profits from
2 Defendants ESG and/or Innovative.

3 6. Upon information and belief, at all times relevant, Defendant Brent Gregory
4 was acting within the scope of his authority with and in furtherance of Defendants
5 ESG/Innovative's business interests.

6 7. Upon information and belief, Defendant Maria Gregory is an individual
7 residing in Maricopa County, Arizona.

8 8. Upon information and belief, at all times relevant to the allegations in this
9 Complaint, Defendant Maria Gregory was an individual doing business in connection with
10 her management interest in Defendants ESG and/or Innovative and received profits from
11 Defendants ESG and/or Innovative.

12 9. Upon information and belief, at all times relevant, Defendant Maria Gregory
13 was acting within the scope of her authority with and in furtherance of Defendants
14 ESG/Innovative's business interests.

15 10. Upon information and belief, at all times relevant to this Complaint,
16 Defendants Gregory were agents acting on behalf of ESG and/or Innovative.

17 11. Upon information and belief, Defendants Gregorys' actions so alleged were
18 for the benefit of and in furtherance of the marital community. As such, the community
19 is liable for the actions described herein.

20 12. Upon information and belief, Defendant Christopher Bonilha is an individual
21 residing in Maricopa County, Arizona.

1 13. Upon information and belief, at all times relevant to the allegations in this
2 Complaint, Defendant Christopher Bonilha was an individual doing business in connection
3 with his management interest in Defendants ESG and/or Innovative and received profits
4 from Defendant ESG and/or Innovative.

5 14. Upon information and belief, at all times relevant, Defendant Bonilha was
6 acting within the scope of his authority with and in furtherance of Defendant ESG's
7 business interests.

8 15. At all times relevant to this Complaint, Defendant Bonilha was an agent
9 acting on behalf of ESG.

10 16. Upon information and belief, Defendant Bonilha's individual actions so
11 alleged were for the benefit of and in furtherance of the marital community. As such, the
12 community, including Jane Doe Bonilha, is liable for the actions described herein.
13 Defendant Jane Doe Bonilha's true name is unknown at this time, but will be amended
14 upon determination of her true name to reflect her true name.

15 17. Upon information and belief, Defendant Evellyn Ancheschi is an individual
16 residing in Maricopa County, Arizona.

17 18. Upon information and belief, at all times relevant to the allegations in this
18 Complaint, Defendant Evellyn Ancheschi was an individual doing business in connection
19 with her management interest in Defendants ESG and/or Innovative and received profits
20 from Defendant ESG and/or Innovative.

1 19. Upon information and belief, at all times relevant, Defendant Ancheschi was
2 acting within the scope of her authority with and in furtherance of Defendant ESG's
3 business interests.

4 20. Upon information and belief, at all times relevant to this Complaint,
5 Defendant Ancheschi was an agent acting on behalf of ESG.

6 21. Upon information and belief, Defendant Ancheschi's individual actions so
7 alleged were for the benefit of and in furtherance of the marital community. As such, the
8 community, including John Doe Ancheschi, is liable for the actions described herein.
9 Defendant John Doe Ancheschi's true name is unknown at this time, but will be amended
10 upon determination of his true name to reflect his true name.

12 22. Upon information and belief, Defendant Brent Allen Gregory is a Trustee of
13 the Montaldeo Revocable Trust established on July 25, 2012, which was involved in the
14 management of Defendant ESGs and Innovative and received profits from Defendant ESG
15 and Innovative.

17 23. Upon information and belief, Defendant Maria Rosario Gregory is a Trustee
18 of the Montaldeo Revocable Trust established on July 25, 2012, which was involved in the
19 management of Defendants ESG and Innovative and received profits from Defendant ESG
20 and Innovative.

21 24. The true names and capacities whether individual, corporate, associate,
22 partnership or otherwise, of the defendants herein designated as DOES 1 through 10 and
23 ROE CORPORATIONS 1 through 10, inclusive. are unknown to Plaintiff who therefore
24 sues said Defendants by such fictitious names. Plaintiffs will seek leave of the Court to
25

1 insert the true names and capacities of such defendants when the same have been
2 ascertained and will further seek leave to join said defendants in these proceedings.
3

JURISDICTION AND VENUE

4 25. The Court possess jurisdiction under 28 U.S.C. § 1331. Plaintiff's claims
5 present federal questions.
6

7 26. Jurisdiction is proper pursuant to 18 U.S.C. § 1965, which allows for
8 nationwide jurisdiction pursuant to the Racketeer Influenced and Corrupt Organizations
9 Act (“RICO”), 18 U.S.C. §§ 1961-1968. 14.
10

11 27. District Courts have supplement jurisdiction over related claims after original
12 jurisdiction has been established. 28 U.S.C. § 1367.
13

14 28. Venue is proper in the District of Arizona. Defendants have caused
15 substantial part of the events or omissions giving rise to Plaintiffs' claims to occur in
16 Maricopa County, Arizona which give rise to Plaintiff's claims, and Plaintiff suffered
17 damages in Maricopa County, Arizona. 28 U.S.C. § 1391(a)(2). Defendants transacted
18 their affairs in Maricopa County, Arizona. 18 U.S.C. § 1965(a).
19

GENERAL ALLEGATIONS

20 29. At all times relevant to this Complaint, Defendant Brent Gregory was an
21 officer of the Plaintiff. He was the President, Treasurer, and one of the directors of Plaintiff
22 CPS.
23

24 30. At all times relevant to this Complaint, Defendant Maria Gregory was also
25 an officer of Plaintiff CPS. She was the Secretary and one of its directors.
26

1 31. Defendant Bonilha started working for Plaintiff CPS on March 22, 2010. He
2 worked for CPS for five (5) years.

3 32. Defendant ESG was formed on December 23, 2014.

4 33. Defendants Bonilha and Brent Gregory were the founding members of
5 Defendant ESG.

6 34. Defendant Bonilha submitted his resignation to Plaintiff CPS on March 16,
7 2015.

8 35. Defendant Bonilha's resignation letter explicitly stated that he would not
9 compete with Plaintiff and that he would not approach Plaintiff's client base.

11 36. On November 8, 2015, Defendants Bonilha and Brent Gregory were
12 removed as members of ESG and Defendants Ancheschi and Montaldeo were added as
13 members of ESG.

14 37. On February 17, 2016, Defendant Ancheschi was removed as a member of
15 ESG and replaced by Defendant Bonilha.

17 38. In 2017, Defendant Bonilha, Ancheschi, and Montaldeo received K-1
18 schedules for the 2016 tax year for Defendant ESG.

19 39. On July 19, 2017, Defendant Bonilha was removed as a member, leaving
20 Defendant Montaldeo as the only remaining member of Defendant ESG.

21 40. On July 17, 2019, Defendant ESG filed the paperwork with the Arizona
22 Corporation Commission to change its name to Innovative Energy, LLC.

24 41. As of November 2019, Defendant Montaldeo was the only member of
25 Defendant Innovative.

1 42. Upon information and belief, Defendant ESG through the direction of
2 Defendants Brent Gregory (both in his personal capacity and as a Trustee of Defendant
3 Montaldeo), Bonilha, Ancheschi, as well as Maria Gregory (as Trustee of Defendant
4 Montaldeo) devised and executed a scheme in which Defendant ESG and/or Innovative
5 would move CPS's employees and personnel from CPS's payroll and hire them. Defendant
6 ESG would then charge the employees back to Plaintiff CPS at much higher labor rates
7 than what it would have cost for the employees to work directly for CPS.
8

9 43. Upon information and belief, Defendant ESG, through the actions of its
10 changing members, changed the rates and adjusted the overtime in order to maximize the
11 revenue paid to Defendant ESG and/or Innovative and minimize the net income of CPS.
12

13 44. Upon information and belief, as part of the ongoing scheme, Defendants ESG
14 and Innovative, through the actions and conspiracy of its members, also interfered with
15 Plaintiff's existing contracts with its interstate and international clients.
16

17 45. Upon information and belief, as part of the ongoing scheme, Defendant ESG
18 and Innovative, through the actions and conspiracy of its members, used Plaintiff's server,
19 computers, software, desks, and facilities as its own.
20

21 46. Upon information and belief, Defendants ESG and Innovative used Plaintiff
22 CPS's physical address and main telephone number as its own.
23

24 47. Upon information and belief, Defendants ESG and Innovative used Plaintiff
25 CPS' support staff as its own.
26

27 48. Upon information and belief, Defendants charged business development
28 expenses to CPS and the contracts were awarded to Defendants ESG and/or Innovative.
29

1 49. Upon information and belief, Defendants ESG and Innovative never had a
2 legitimate business purpose.

3 50. Upon information and belief and at all times relevant to this lawsuit,
4 Defendants ESG and Innovative, through the actions of its members, were shell companies
5 whose sole existence were to siphon, embezzle and otherwise defraud Plaintiff of its funds.

6 51. Upon information and belief, Defendant ESG and/or Defendant Innovative
7 charged Plaintiff one million, nine hundred sixty-seven thousand, nine hundred sixty-eight
8 dollars (\$ 1,967,968) between April 2015 through November 2019.

9 52. Upon information and belief, Plaintiff CPS incurred Seven Hundred Fifty-
10 Three Thousand, One Hundred Seventy-Seven Dollars (\$753,177.00) in lost profits due to
11 Defendant ESG and/or Defendant Innovative's billing practices, for services Plaintiff
12 should have provided directly.

13 53. On October 23, 2008, Defendant Brett Gregory signed an Employee
14 Confidentiality, Work Product Assignment, Noncompetition and Non-Solicitation
15 Agreement "Agreement" with Plaintiff CPS.

16 54. Paragraph 2 of Section I, CONFIDENTIALITY/NON-DISCLOSURE, in
17 the 2008 Agreement states:

18 I agree at all times during the term of my employment and
19 thereafter, to hold in **strictest confidence in a fiduciary capacity**
20 **for the sole benefit of the Company**, all Confidential Information
21 and, except as authorized by the Company in writing, shall take all
22 reasonable and necessary steps and exert best commercial efforts
23 to **NOT, at any time, either during the term of this Agreement**
24 **or after its termination:** i) disclose, communicate or induce the
25 communication to any third party any Confidential Information; ii)
use or induce the use of the Confidential Information in any manner
except for the benefit of the Company and to fulfill my employment

1 obligations; iii) use or induce the use of any Confidential
 2 Information for my own benefit or the benefit of third parties;
 3 iv) use or induce the use of any Confidential Information to the
 detriment of the Company or misuse the Confidential Information
 in any way.

4 55. Paragraph 6 of Section I, CONFIDENTIALITY/NON-DISCLOSURE, in
 5 the 2008 Agreement states:

6 I acknowledge and agree that all Confidential Information is and
 7 shall be the sole and exclusive property of the Company and that
 8 any and all information developed or acquired, or works created,
 9 or inventions, improvements, developments, processes or methods,
 10 extensions, copyrightable works, confidential ideas, discoveries,
 11 improvements, advancements and trade secrets that may be made,
 12 conceived, invented, acquired or suggested by the parties, whether
 13 jointly or independently, whether or not protected by patent,
 14 trademark, copyright or trade secrets, which is a result, either
 15 directly or indirectly, of disclosure of the Confidential Information
 16 to me, shall be the sole and exclusive property of the Company.
 I further understand and agree that any and all Confidential
 17 Information and other materials or information which I otherwise
 18 develop or create as a consequence of or through my
 19 employment with the Company ("Work Product" as hereinafter
 20 defined) shall be the sole and exclusive property of the
 21 Company.

22 56. Paragraph 1 of Section III. COVENANT NOT TO COMPETE AND NON-
 23 SOLICITATION, in the 2008 Agreement states:

24 The Company is a research and development engineering group
 25 that specializes in combustion and provides services and solutions
 26 energy providers. I acknowledge that: (a) all Confidential
 1 Information is and shall be the sole and exclusive property of the
 2 Company and constitutes unique and special property of the
 3 Company; (b) the Company has a legitimate business interest in
 4 protecting its Confidential Information; (c) the Company's services
 5 and products, as well as the creative processes used to develop the
 6 Company's services and products are unique and specialized items;
 7 (d) the Company's services and products are tailored to the needs
 8 of its markets, customers and potential customers; (e) the Company
 9 has a proprietary interest in its Confidential Information including

1 the identity of its customers and customer lists and the documents
2 and information regarding pricing, costs and Company operations;
3 (f) that during the course of my employment, customers of the
4 Company will develop a trust in my ability to fully service their
5 specialized needs and I acknowledge that this trust and the relations
6 developed therein is a valuable Company asset which constitutes a
7 protectable interest thereof; (g) the compilation of information
8 regarding the Company's customers and prospective customers,
9 and the particular needs of the its customers and prospective
10 customers are not generally known in the industry; (h) the
11 Confidential Information constitutes valuable trade secrets of the
12 Company that, if disclosed, would cause considerable harm to the
13 Company; (i) the Confidential Information, together with all other
14 documents, information and materials regarding the Company's
15 methods of sales, pricing, costs, marketing, processes and
16 development are highly confidential; (j) the Company has spent a
17 substantial amount of money, time and effort in the development
18 of the Confidential Information; (k) I am aware that the
19 Confidential Information is not generally known within the
20 industry or to the general public and it designed to give and does
21 give the Company a competitive edge over others in its industry
22 and, as such, has independent economic value; (l) the Company has
23 and will spend a substantial amount of money, time and effort in
24 the development of relationships with its customers; (n) the
25 **Company would suffer irreparable injury if I compete with the**
26 **Company**; and (o) my employment by the Company and the
compensation paid to me by it are at least in part dependent upon
earnings or profits which accrue to the Company through its
ownership of the Confidential Information.

2. Restrictive Covenants. I recognize that the Company has a
legitimate business interest in protecting its relationship with
customers and potential customers. I further recognize, in my
capacity as an employee of the Company, I will have substantial
contact with the Confidential Information, proprietary assets and
trade secrets belonging to the Company, and despite the
confidentiality and other restrictions of this Agreement, given the
nature of the Confidential Information, it is likely that such
information would inevitably be used or revealed, either directly or
indirectly, in any subsequent employment with a competitor of the
Company in any position comparable to the employment position
I currently hold with the Company. In consideration of the valuable
benefits received in connection with my employment with the
Company, and for other good and valuable consideration, the

receipt of which is hereby acknowledged: (a) I agree and covenant that for a period of one (1) year following the termination of my employment, with or without cause, with or without notice, by either party, I will not directly or indirectly as an employee, consultant, investor, owner, agent, partner, director or representative, associate myself with any other entity for which the rendering of combustion related engineering solutions and services to energy providers accounts for more than fifty percent (50%) of total annual sales revenue. I specifically agree not to compete with the Company for any clients I called on for the Company in the development, production or sale of any product or service for which I was involved while employed by the Company. I understand that the Company does and its competitors do render their services throughout Maricopa County and I therefore specifically consent to the restrictions of this Section III 2(a) hereof being within the city of Phoenix, Arizona, and that more narrow geographical limitations of any nature on this non-competition covenant are therefore not appropriate. I do not believe said restrictions to be an unreasonable restraint on any future employment by me. I understand and agree that this covenant not to compete is necessary to provide the Company with protection for its aforesaid Confidential Information which it now has or may acquire during my term of employment.

57. Paragraph 1(f) of Section III. COVENANT NOT TO COMPETE AND
NON-SOLICITATION, in the 2008 Agreement states:

I further agree and covenant that for a period of two (2) years following the termination of my employment, with or without cause, with or without notice, by either party, I will not directly or indirectly, either for myself or any other person or entity, call on, solicit or induce any actual or targeted prospective customers or clients of the Company in an attempt to have them cease to do business or to reduce the amount of business which any such customer has customarily done or actively contemplates doing with the Company.

58. Paragraph 3 of IV. MISCELLANEOUS PROVISIONS, in the 2008
Agreement states:

Employee to Devote Full Time to Company. The Employee will devote his full time, attention, and energies to the business of the Company, and, **during this employment, will not engage in any other business activity**, regardless of whether such activity is pursued for profit, gain, or other pecuniary advantage unless explicitly approved in writing by Company. Employee is not prohibited from making personal investments in any other businesses provided those investments do not require active involvement in the operation of said companies. Employee shall actively **comply with and support all Company rules and regulations.**

59. Paragraph 11 of IV. MISCELLANEOUS PROVISIONS, in the 2008

9
Agreement states:

10 Survival. The provisions in this Agreement that contemplate
11 obligations on my part after I am no longer employed by the
12 Company shall survive the cessation of my employment with the
13 Company.

60. On July 20, 2007, Brent Gregory signed an employment agreement with

14 Plaintiff.

61. Article III of the July 2007 contract states:

16 “All income and/or expenses of Employee derived from, or
17 arising out of, the Employer's business shall inure to and be
18 considered the income and/or expenses of Employer.”

62. Article IV of the Employment Contract states that in addition to a base salary, Defendant Brent Gregory would be compensated for travel expenses, full medical and dental insurance coverage for Employee and his spouse, with standard coverage and deductibles; automobile and insurance coverage expense in an amount not to exceed \$500.00 per month; cell phone; and annual contributions to a 401(k) retirement plan for the benefit of Employee.

1 63. Article V of the Employment Contract stated that Defendant Brent Gregory
2 is authorized to incur reasonable expenses for promoting the business of Plaintiff, including
3 expenses for entertainment and travel.

4 64. Article VII of the Employment Contract stated the Defendant Brent Gregory
5 was entitled to vacation time and conference schedules which “shall not exceed two (2)
6 weeks during each year for vacations and shall not exceed one (1) week during each year
7 for meetings of business societies and similar meetings.”

8 65. From April 2015 through November 2019, Plaintiff paid Defendant Brent
9 Gregory a total of Eight Hundred Three Thousand, Ninety-Two Dollars (\$803,092.00)
10 and/, including retirement benefits.

12 66. From April 2015 through November 2019, Plaintiff paid Defendant Maria
13 Gregory a total of Seventy-Five Thousand Four Hundred Thirty-Seven Dollars
14 (\$75,437.00), including other benefits.

15 67. In 2015 Plaintiff paid Defendant Chris Bonilha a total of Twenty-One
16 Thousand Dollars (\$21,000.00) in salaries.

18 68. From April 2015 through November 2019, Plaintiff paid Sixty-Six Thousand
19 Six Hundred Seventy-Four Dollars (\$66,674.00) in Medical Insurance, Medicare and
20 Concierge Physician Benefits for Defendants Gregory.

21 69. Defendant Brent Gregory used his company credit cards for unauthorized
22 purchases and charged most of his personal expenses which were not covered by his
23 employment contract.

1 70. Upon information and belief, Plaintiff sustained damages in the amount of
2 Nineteen Thousand Two Hundred Eighty-Three Dollars (\$19,283.00) for personal
3 expenses wrongfully incurred on behalf of Defendants Gregory.

4 71. On September 30, 2019, Defendant Brent Gregory sent email informing CPS
5 of his decision to retire.

6 72. In his last few days prior to his retirement, Defendant Brent Gregory made a
7 withdrawal from Plaintiff's bank account and took a half of a month's salary for
8 unauthorized vacation time he claimed was owed.

9 73. On June 3, 2014, Defendant Brent Gregory, along with Majed Toqan, Ryan
10 Yamane, and Jonathan Regele, as employees of Plaintiff CPS, were granted patent number
11 8739511 for a can-annular combustor with staged and tangential fuel-air nozzles for use
12 on gas turbine engines.

13 74. On December 9, 2014, Defendant Brent Gregory, along with Majed Toqan,
14 Ryan Yamane, and Jonathan Regele, as employees of Plaintiff CPS, were granted patent
15 number 8904799 for a tangential combustor with vaneless turbine for use on gas turbine
16 engines.

17 75. On June 9, 2015, Defendant Brent Gregory, along with Majed Toqan, Ryan
18 Yamane, and Jonathan Regele, as employees of Plaintiff CPS, were granted patent number
19 9052114 for a tangential annular combustor with premixed fuel and air for use on gas
20 turbine engines.

76. On July 28, 2015, Defendant Brent Gregory, along with Majed Toqan, Ryan Yamane, and Jonathan Regele, as employees of Plaintiff CPS, were granted patent number 9091446 for a tangential and flameless annular combustor for use on gas turbine engines.

77. On November 10, 2015, Defendant Brent Gregory, along with Majed Toqan, Ryan Yamane, and Jonathan Regele, as employees of Plaintiff CPS, were granted patent number 9181812 for a can-annular combustor with premixed tangential fuel-air nozzles for use on gas turbine engines.

78. Pursuant to the terms of the contract that Defendant Brent Gregory signed, Plaintiff CPS owns those patents.

79. Pursuant to the terms of the contract, Defendant Brent Gregory is required to turn over confidential information including patents, to Plaintiff CPS.

80. Defendant Brent Gregory has not returned the patents to Plaintiff despite requests to do so.

COUNT I

Violations of Federal Civil RICO—Conduct of a RICO Enterprise

18 U.S.C. § 1962(c)

81. Plaintiff incorporates by reference all the preceding paragraphs of this Complaint as if fully set forth herein.

82. At all relevant times, Defendants Gregory, Bonilha, Ancheschi, and Montaldeo are each “person[s]” within the meaning of 18 U.S.C. §§ 1961(3) and 1962(c).

83. At all relevant times, Defendants ESG and Innovative constitute “Enterprises” within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c). At all relevant

1 times, the ESG and Innovative were engaged in, and/or their activities affected, interstate
2 commerce and/or foreign commerce within the meaning of 18 U.S.C. § 1962(c).

3 84. Upon information and belief, RICO Defendants each violated 18 U.S.C. §
4 1962(c).

5 85. At all relevant times, Defendant Brent Gregory, Bonilha, Ancheschi, and
6 Montaldeo held a position in Defendants ESG and/or Innovative, as well as participated in
7 the operation, management, and directed the affairs of Defendants ESG and/or Innovative.
8 Upon information and belief, Defendants ESG and Innovative, as alleged herein, were
9 operating solely to participate in the predicate acts and has its activities were solely used
10 for racketeering activity.

12 86. Upon information and belief, Defendants Gregory, Bonilha, Ancheschi, and
13 Montaldeo, each of whom are persons associated with, or employed by, Defendant
14 Gregory, did knowingly, willfully, and unlawfully conduct or participate, directly or
15 indirectly, in the conduct, management, or operation of the affairs of the Defendants ESG
16 and/or Innovative through a pattern of racketeering activity within the meaning of 18
17 U.S.C. §§ 1961(1), 1961(5), and 1962(c), through multiple instances of Mail Fraud and
18 Wire Fraud, in violation of 18 U.S.C. §§ 1341 and 1343, and Money Laundering, in
19 violation of 18 U.S.C. § 1956(a)(1)(A)(i), and Use of the Mails and Wires to Defraud, in
20 violation of 18 U.S.C. §§ 1341 and 1343.

22 87. Upon information and belief, Defendants Gregory, Bonilha, Ancheschi, and
23 Montaldeo devised or intended to devise a scheme to defraud Plaintiff of money, property,
24

1 and other benefits of monetary value by means of false or fraudulent pretenses and
2 representations.

3 88. For the purposes of executing their scheme, Defendants Gregory, Bonilha,
4 Ancheschi, and Montaldeo, through Defendant ESG and/or Innovative, delivered or caused
5 delivery of various documents and things by the U.S. mails or by private or commercial
6 interstate carriers, or received such therefrom. For the purposes of executing their scheme,
7 Defendants Gregory, Bonilha, Ancheschi, and Montaldeo transmitted or caused to be
8 transmitted by means of wire communications in interstate or foreign commerce various
9 writings, signs, and signals.

10 89. Upon information and belief, in furtherance of their scheme, Defendants
11 Gregory, Bonilha, Ancheschi, and Montaldeo used the wires and/or U.S. mails or private
12 or commercial carriers to delivery documents and things to Plaintiffs or the Enterprises for
13 the purposes of defrauding Plaintiff, in violation of 18 U.S.C. §§ 1341 and 1343, including,
14 but not limited to the following:

15 a. Emails and website postings incorporating false, fraudulent and
16 misleading statements regarding: Plaintiff CPS; directions, instructions and
17 actions taken to deprive Plaintiff of money and property as well as other
18 benefits.

19 b. Wirings and/or mailings between and among Defendants Gregory,
20 Bonilha, Ancheschi, and Montaldeo concerning: the scheme to defraud
21 Plaintiff of money and property as well as other benefits.

c. Funds transferred between Plaintiff CPS and Defendant ESG and/or Innovative with the intent that those funds be used to promote the carrying on of Defendants' scheme to defraud Plaintiff of money and property as well as other benefits;

90. Defendants ESG, Innovative, Gregory, Bonilha, Ancheschi, and Montaldeo used the wires and mails in interstate commerce with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of an unlawful activity.

91. Upon information and belief, Defendants ESG, Innovative, Gregory, Bonilha, Ancheschi, and Montaldeo's racketeering activities were multiple, continuous, and ongoing from April 2015 through November 2019, when the actions were discovered.

92. Defendants ESG, Innovative, Gregory, Bonilha, Ancheschi, and Montaldeo participated in the scheme or artifice knowingly, willfully, and with the specific intent to advance their scheme to deceive or defraud Plaintiff. Defendants knowingly and intentionally prepared documents, including but not limited to, letters, notices, invoices, and other documents, and then knowingly and with the intent to deceive Plaintiff, caused those documents to be sent to Plaintiff or entities that would further Defendants' scheme to defraud.

93. Upon information and belief, Defendants have, on multiple occasions, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducted or attempt to conduct a financial transaction which in fact involves the proceeds of specified unlawful activity with the intent to promote

1 the carrying on of specified unlawful activity, including, but not limited to, violations of
2 18 U.S.C. §§ 1341 and 1343. RICO Defendants have, therefore, violated 18 U.S.C. §
3 1956(a)(1)(A)(i).

4 94. Defendants have engaged in multiple predicate acts, as described in the
5 above. The conduct of the Defendants constitutes a pattern of racketeering activity within
6 the meaning of 18 U.S.C. § 1961(5).

7 95. Defendants' violations of federal law as set forth herein, each of which
8 directly and proximately injured Plaintiff, constitutes a continuous course of conduct,
9 which was intended to defraud Plaintiff of money and property through false
10 representations, fraud, deceit, and other improper and unlawful means.

12 96. Therefore, said violations were a part of racketeering activity as defined by
13 18 U.S.C. §§ 1961(1) and (5).

14 97. Plaintiff was financially damaged by reason of the Defendants' violation of
15 18 U.S.C. § 1962(c).

17 98. The injuries to Plaintiff were a direct, proximate, and reasonably foreseeable
18 result of the Defendants' violation of 18 U.S.C. § 1962.

19 99. Plaintiff is the ultimate victim of Defendants' unlawful enterprises.

20 100. Plaintiff has been and will continue to be damaged in an amount to be
21 determined at trial.

22 101. Pursuant to 18 U.S.C. § 1962(c), Plaintiff is entitled to recover treble
23 damages plus costs and attorneys' fees from Defendants as well as any other relief
24 authorized by statute.

COUNT II

**Violations of Federal Civil RICO— Acquisition and Maintenance of an Interest in and
Control of an Enterprise Engaged in a Pattern of Racketeering Activity**

18 U.S.C. §§ 1961(5), 1962(b)

102. Plaintiff repeats and re-allege each and every allegation of the foregoing
paragraphs as if fully set forth herein.

103. Upon information and belief, during the period of April 2015 through
November 2019, all Defendants did cooperate jointly and severally in the commission of
two (2) or more of the RICO predicate acts that are itemized in the RICO laws at 18 U.S.C.
§§ 1961(1)(A) and (B) and did so in violation of the RICO law at 18 U.S.C. § 1962(b)
(prohibited activities).

104. By virtue of the predicate acts described in this Complaint, including without
limitations: laundering of monetary instruments, engaging in monetary transactions
improperly derived from unlawful activity, Defendants transferred, received, furthered and
supplied financing and income that was derived, both directly and indirectly, from a pattern
of racketeering activity in which each of them participated as a principal and used and
invested, both directly and indirectly, such income and the proceeds of such income, in
establishing, operating and furthering other illegal enterprises in violation of 18 U.S.C. §
1962(a).

105. As a direct and proximate result of Defendants' violation of 18 U.S.C. §
1962(a), Plaintiff suffered the loss of valuable property, financial services and support, and
suffered other business and pecuniary damages.

106. Plaintiff further alleges that Defendants did commit two (2) or more of the
1
offenses itemized above in a manner which they calculated and premeditated intentionally
2
to threaten continuity, i.e. a continuing threat of their respective racketeering activities, also
3
in violation of the RICO law at 18 U.S.C. § 1962(b) supra.
4

5 107. 18 U.S.C. § 1964(c) defines “racketeering activity” as follows: (1)
6 “racketeering activity” means (B) any act which is indictable under any of the following
7 provisions of title 18, United States Code: Section 659 (relating to theft from interstate
8 shipment) if the act indictable under section 659 is felonious, sections 891–894 (relating to
9 extortionate credit transactions), section 1029 (relating to fraud and related activity in
10 connection with access devices), section 1341 (relating to mail fraud), section 1343
11 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1351
12 (relating to fraud in foreign labor contracting), [1] section 1951 (relating to interference
13 with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1956
14 (relating to the laundering of monetary instruments), or section 1957 (relating to engaging
15 in monetary transactions in property derived from specified unlawful activity).
16
17

18 108. Plaintiff demands that judgment be entered against Defendants, each and
19 every one of them, jointly and severally, including an award of trebled damages as
20 consistent with 18 U.S.C. § 1964(c), compensatory and actual damages, reasonable
21 attorneys’ fees, pre-judgment interest, post-interest, costs, and an award that this Court
22 deems just and proper.
23
24
25
26

COUNT III

Violations of Federal Civil RICO— Conduct and Participation in a RICO Enterprise through a Pattern of Racketeering Activity:

18 U.S.C. §§ 1961(5), 1962(c) 225.

109. Plaintiff repeats and re-alleges each and every allegation of the foregoing paragraphs as if fully set forth herein, and specifically repeats and re-allege the allegations under the Second Cause of Action concerning RICO liability.

110. All Defendants did associate with a RICO enterprise of individuals who were associated in fact and who engaged in, and whose activities did affect, interstate and foreign commerce.

111. Likewise, all Defendants did conduct and/or participate, either directly or indirectly, in the conduct of the affairs of said RICO enterprise through a pattern of racketeering activity, all in violation of 18 U.S.C. §§ 1961(4), (5), (9), and 1962(c).

112. During the period of April 2015 through November 2019, all Defendants did cooperate jointly and severally in the commission of two (2) or more of the RICO predicate acts that are itemized in the RICO laws at 18 U.S.C. §§ 1961(1)(A) and (B), and did so in violation of the RICO law at 18 U.S.C. § 1962(c) (prohibited activities).

113. Plaintiff further alleges that all Defendants did commit two (2) or more of the offenses itemized above in a manner which they calculated and premeditated intentionally to threaten continuity, i.e. a continuing threat of their respective racketeering activities, also in violation of the RICO law at 18 U.S.C. § 1962(c).

114. Plaintiff demands that judgment be entered against Defendants, each and
1 every one of them, jointly and severally, including an award of trebled damages as
2 consistent with 18 U.S.C. § 1964(c), compensatory and actual damages, reasonable
3 attorneys' fees, pre-judgment interest, post-interest, costs, and an award that this Court
4 deems just and proper.

6 **COUNT IV**
7

8 **Violations of Federal Civil RICO—Conspiracy to Engage in a Pattern of
9 Racketeering Activity**

10 **18 U.S.C. §§ 1961(5), 1962(d) 231**

115. Plaintiff repeats and re-alleges each and every allegation of the foregoing
12 paragraphs as if fully set forth herein, and specifically repeat and re-allege the allegations
13 under the Second Cause of Action concerning RICO liability.

116. All Defendants did conspire to acquire and maintain an interest in a RICO
15 enterprise engaged in a pattern of racketeering activity, in violation of 18 U.S.C. §§ 1962(b)
16 and (d).

117. During the period of April 2015 through November 2019, all Defendants did
19 cooperate jointly and severally in the commission of two (2) or more of the predicate acts
20 that are itemized at 18 U.S.C. §§ 1961(1)(A) and (B), in violation of 18 U.S.C. § 1962(d).

118. Plaintiff further alleges that all Defendants did commit two (2) or more of
22 the offenses itemized above in a manner which they calculated and premeditated
23 intentionally to threaten continuity, i.e. a continuing threat of their respective racketeering
24 activities, also in violation of 18 U.S.C. § 1962(d) (prohibited activities).

119. Plaintiff demands that judgment be entered against Defendants, each and
1 every one of them, jointly and severally, including an award of trebled damages as
2 consistent with 18 U.S.C. § 1964(c), compensatory and actual damages, reasonable
3 attorneys' fees, pre-judgment interest, post-interest, costs, and an award that this Court
4 deems just and proper.

6 **COUNT V**
7

8 **Conversion**
9

10 **(All Defendants)**
11

120. Plaintiff incorporates by reference all the preceding paragraphs of this
1 Complaint as if fully set forth herein.

121. "Conversion is . . . an intentional exercise of dominion or control over a
13 chattel which so seriously interferes with the right of another to control it that the actor
14 may justly be required to pay the other the full value of the chattel." *Mobile Disc. Corp. v.*
15 *Schumacher*, 139 Ariz. 15, 17, 676 P.2d 649, 651 (App. Div. 2, 1983); see also *Focal Point,*
16 *Inc. v. U-Haul Co. of Ariz., Inc.*, 155 Ariz. 318, 319-20, 746 P.2d 488, 489-90 (Ariz. App.
17 Div. 1 1986); RESTATEMENT (SECOND) OF TORTS § 222(A)(1).

122. Defendants Brent Gregory and Christopher Bonilha, as principles of
19 Defendant ESG, have deprived Plaintiff of, and interfered with its rights to, to funds in
20 amount of Seven Hundred Fifty-Three Thousand, One Hundred Seventy-Seven Dollars
21 (\$753,177.00), by unlawful and fraudulent means, refusing and failing to return the funds
22 to Plaintiff.
23
24

123. Defendants Maria Gregory, Evellyn Ancheschi, and the Gregorys as Trustees
1
2 of the Montaldeo have received unlawfully obtained funds from Defendant ESG and/or
3 Innovative, to which they are not entitled.

4 124. Defendants have no right to retain said unlawfully obtained funds, which are
5 lawfully the property of Plaintiff.

6 125. Defendants are obligated to return said funds to Plaintiff.

7 126. Upon information and belief, Defendants have converted the subject funds
8 for his/her/their/its own benefit and use.

9 10 127. Defendants' actions constitute conversion of Plaintiff's property.

11 128. As a direct and proximate cause of Defendants conversions, Plaintiff suffered
12 and will continue to suffer harm and damages in an amount to be proven at the time of trial.

13 129. The imposition of a constructive trust over all monies converted from
14 Plaintiff and any property purchased therewith and/or proceeds thereof, is appropriate.

15 **COUNT V**

16 **Fraud**

17 18 **(All Defendants)**

19 130. Plaintiff incorporates by reference all the preceding paragraphs of this
20 Complaint as if fully set forth herein.

21 131. Upon information and belief, Defendants Gregory, Bonilha, Ancheschi, and
22 Montaldeo Trust knew of the scheme perpetrated by Defendant ESG and Defendant
23 Innovative and the funds each Defendant received were unlawfully obtained pursuant to
24 that scheme.

132. Upon information and belief, Plaintiff alleges that Defendants, and each of them, conspired for the specific purpose of depriving Plaintiff of its funds and to defraud Plaintiff, all with malice, ill will, and an evil mind toward Plaintiff.

133. Plaintiff has been injured by loss of use of its funds. Plaintiff seeks compensatory damages under separate causes of action as addressed in this Complaint, as more fully set forth therein.

134. These acts were malicious, fraudulent, and oppressive, justifying an award of punitive damages so that Defendants, each of them, will not engage in such conduct in the future and to make an example of them.

COUNT VI

Civil Conspiracy

(Defendants Gregory, Bonilha and Ancheschi)

135. Plaintiff incorporates by reference all the preceding paragraphs of this Complaint as if fully set forth herein.

136. For a civil conspiracy to occur two or more people must agree to accomplish an unlawful purpose or to accomplish a lawful object by unlawful means, causing damages." *Baker v. Stewart Title & Trust of Phoenix*, 197 Ariz. 535, 542, 5 P.3d 249, 256 ¶ 30 (App.2000) (quoting *Rowland v. Union Hills Country Club*, 157 Ariz. 301, 306, 757 P.2d 105, 110 (1988)); see also RESTATEMENT (SECOND) OF TORTS § 876. *Wells Fargo Bank v. Arizona Laborers*, 201 Ariz. 474, 38 P.3d 12 (2002).

137. Liability for civil conspiracy requires that two or more individuals agree and thereupon accomplish "an underlying tort which the alleged conspirators agreed to

1 commit." *Baker* at 545, 5 P.3d at 259; *Wells Fargo Bank v. Arizona Laborers*, 201 Ariz.
2 474, 38 P.3d 12 (2002).

3 138. At various times throughout Defendant ESG's useful life, Defendants
4 Gregory, Bonilha and Ancheschi were all listed, at least at one time, as members/managers
5 of the LLC.

6 139. By virtue of his/her position as member/manager of the LLC, Defendants
7 Gregory, Bonilha, and Ancheschi had actual knowledge of the scheme Defendant ESG had
8 hatched to defraud Plaintiff of its rightful funds.
9

10 140. Defendants Gregory, Bonilha, and Ancheschi actually received unlawfully
11 obtained funds distributed from Defendant ESG, knowing the funds were received from
12 the unlawful conspired scheme in which the ultimate goal of Defendant ESG was to
13 defraud Plaintiff of its rightful property.
14

15 141. Plaintiff was financially harmed due to Defendants Gregory, Bonilha, and
16 Ancheschi's unlawful conspiracy to commit intentional and fraudulent actions against
17 Plaintiff's interests and Defendants Gregory, Bonilha, and Ancheschi's actions to act upon
18 the conspiracy.
19

20 142. Defendants Gregory, Bonilha, and Ancheschi's actions were a substantial
21 factor in causing Plaintiff's harm.
22

23 143. Plaintiff is entitled to recover damages resulting naturally and directly from
24 the civil conspiracy in an amount to be proven at trial.
25
26

COUNT VII

Fraudulent Concealment

(Defendant Brent Gregory and Defendant Bonilha)

144. Plaintiff incorporates by reference all the preceding paragraphs of this Complaint as if fully set forth herein.

145. Defendant Brent Gregory and Defendant Bonilha intentionally failed to disclose certain facts to Plaintiff.

146. Defendant Brent Gregory and Defendant Bonilha had a duty to provide true, accurate, and/or complete information to prevent a substantial and foreseeable risk of injury to Plaintiff.

147. Instead of reporting and disclosing true and correct financial records to Plaintiff, Defendant Brent Gregory and Defendant Bonilha breached their duties to Plaintiff by providing vague, incomplete, inconsistent, and fraudulent financial information.

148. Plaintiff did not know of the concealed facts.

149. Defendant Brent Gregory and Defendant Bonilha intended to deceive and defraud Plaintiff by concealing the facts.

150. Defendant Brent Gregory and Defendant Bonilha were aware that they had a legal obligation to provide true and correct information and that Plaintiff would rely on the information provided.

151. Had the omitted and fraudulent information been disclosed, Plaintiff reasonably would have behaved differently.

152. Defendant Brent Gregory and Defendant Bonilha's concealments were a
1 substantial factor in causing Plaintiff's harm.
2

153. As a direct and proximate cause of Defendant Brent Gregory and Defendant
4 Bonilha's concealments, Plaintiff suffered and will continue to suffer harm and damages in
5 an amount to be proven at the time of trial.

6 **COUNT VIII**
7

8 **Intentional Interference with a Business Relationship**
9

9 **(Defendant Brent Gregory and Bonilha)**
10

154. Plaintiff incorporates by reference all the preceding paragraphs of this
10 Complaint as if fully set forth herein.

155. Arizona law and the Restatement recognize that an action for damages may
13 be based on an interference with a mere but valid expectation of a business relationship.

14 *Hadley v. Southwest Props., Inc.*, 116 Ariz. 503, 506, 570 P.2d 190, 193 (1977); *Bar J Bar*
15 *Cattle Co. v. Pace*, 158 Ariz. 481, 486, 763 P.2d 545, 550 (App. 1988) (citing Restatement
16 § 766B, cmt. c); *Fillmore v. Maricopa Water Processing Systems, Inc.*, 120 P.3d 697, 211
17 Ariz. 269 (Ariz. 2005).

19 156. The first element of the tort of "intentional interference with a business
20 relationship" or expectancy is the existence of a valid contractual relationship or business
21 expectancy.

22 157. Plaintiff had contracts with its existing customers, which Defendant Brent
23 Gregory and Defendant Bonilha had knowledge of.
24

1 158. The second element of the tort of "intentional interference with a business
2 relationship" or expectancy is knowledge of the relationship or expectancy on the part of
3 the interfering party.

4 159. Defendant Brent Gregory and Defendant Bonilha knew of the contracts
5 Plaintiff had with its existing customers.

6 160. The third element of the tort of "intentional interference with a business
7 relationship" or expectancy is an intentional interference inducing or causing a breach or
8 termination of the relationship or expectancy.

9 161. Defendant Brent Gregory and/or Defendant Bonilha intentionally interfered
10 with these contracts by inserting Defendant ESG and/or Defendant Innvoative instead of
11 Plaintiff CPS.

13 162. The fourth element of the tort of "intentional interference with a business
14 relationship" or expectancy is resultant damage to the party whose relationship or
15 expectancy has been disrupted.

163. Plaintiff was damaged by a loss of income based upon the fraudulent scheme.

18 164. The fifth element of the tort of "intentional interference with a business
19 relationship" or expectancy is an improper "motive or means" in the interference.

20 165. Upon information and belief, Defendant Brent Gregory and Defendant
21 Bonilha formed Defendant ESG with the intention of adding a layer of legitimacy to the
22 scheme to defraud and embezzle funds from Plaintiff CPS.

23 166. Plaintiff is entitled to recover damages resulting naturally and directly from
24 the interference in an amount to be proven at trial.

COUNT IX

Aiding and Abetting

(Defendants Maria Gregory, Bonilha, Ancheschi)

167. Plaintiff incorporates by reference all the preceding paragraphs of this Complaint as if fully set forth herein.

168. Arizona recognizes aiding and abetting as embodied in Restatement § 876(b), that a person who aids and abets a tortfeasor is himself liable for the resulting harm to a third person. *Gemstar Ltd. v. Ernst & Young*, 183 Ariz. 148, 159, 901 P.2d 1178, 1189 n. 7 (App.1995), vacated on other grounds, 185 Ariz. 493, 917 P.2d 222 (1996); *Gomez v. Hensley*, 145 Ariz. 176, 178, 700 P.2d 874, 876 (App.1984); see also RESTATEMENT (SECOND) OF TORTS § 876(b) (1977); *Wells Fargo Bank v. Arizona Laborers*, 201 Ariz. 474, 38 P.3d 12 (Ariz. 2002).

169. “[A]iding and abetting liability does not require the existence of, nor does it create, a pre-existing duty of care.... Rather, aiding and abetting liability is based on proof of a scienter ... the defendants must know that the conduct they are aiding and abetting is a tort.” *Wells Fargo Bank v. Arizona Laborers*, 201 Ariz. 474, 38 P.3d 12 (Ariz. 2002).

170. Claims of aiding and abetting tortious conduct require proof of three elements: (1) the primary tortfeasor must commit a tort that causes injury to the plaintiff; (2) the defendant must know that the primary tortfeasor's conduct constitutes a breach of duty; and (3) the defendant must substantially assist or encourage the primary tortfeasor in the achievement of the breach. *Gomez*, 145 Ariz. at 178, 700 P.2d at 876 (citing

1 RESTATEMENT (SECOND) OF TORTS § 876(b)). *Wells Fargo Bank v. Arizona*
 2 *Laborers*, 201 Ariz. 474, 38 P.3d 12 (Ariz. 2002).

3 171. The primary tortfeasor, Defendant Brent Gregory, committed a number of
 4 tortious acts towards Plaintiff which was designed to defraud and scheme Plaintiff of its
 5 funds and property, as addressed in this Complaint.

6 172. Defendant Maria Gregory, Defendant Bonilha, and Defendant Ancheschi
 7 knew of the scheme perpetrated by Defendant Brent Gregory under the guise of business
 8 for Defendant ESG and/or Defendant Innovative.

9 173. "Because aiding and abetting is a theory of secondary liability, the party
 10 charged with the tort must have knowledge of the primary violation, and such knowledge
 11 may be inferred from the circumstances." *See In re American Continental Corp./Lincoln*
 12 *Sav. and Loan Sec. Litig.*, 794 F.Supp. 1424, 1436 (D.Ariz.1992); *Wells Fargo Bank v.*
 13 *Arizona Laborers*, 201 Ariz. 474, 38 P.3d 12 (Ariz. 2002).

14 174. "Actual and complete knowledge of the details of the primary tort may not
 15 be necessary in all cases; the knowledge requirement may be satisfied by showing general
 16 awareness of the primary tortfeasor's fraudulent scheme." *Dawson v. Withycombe*, 216
 17 Ariz. 84, 102, P 50, 163 P.3d 1034, 1052 (App. Div. 1, 2007).

18 175. Defendant Maria Gregory, Defendant Bonila, and Defendant Ancheschi
 19 actively encouraged and substantially assisted Defendant Brent Gregory in the continued
 20 efforts to defraud Plaintiff of its funds through their combined efforts to continue the
 21 legitimacy of Defendants ESG and/or Innovative and to continue to cover up the known
 22 existence of the ESG's original scheme.

1 176. Plaintiff was financially harmed due to Defendants Gregory, Bonilha, and
2 Ancheschi's unlawful, intentional, and fraudulent actions against Plaintiff's interests.
3

4 177. Defendants Gregory, Bonilha, and Ancheschi's actions were a substantial
5 factor in causing Plaintiff's harm.
6

7 178. Plaintiff is entitled to recover damages resulting naturally and directly from
8 the harm in an amount to be proven at trial.
9

10 **COUNT X**

11 **Breach of Fiduciary Duty**

12 **(Defendants Brent and Maria Gregory)**

13 179. Plaintiff incorporates by reference all the preceding paragraphs of this
14 Complaint as if fully set forth herein.
15

16 180. The relationship[s] between a corporation and its directors and officers,
17 employees, agents and consultants or advisors are fiduciary relationships. *AMERCO v.*
18 *Shoen*, 184 Ariz. 150, 907 P.2d 536 (App. 1995).
19

20 181. At all times relevant to this litigation, Defendants Brent and Maria Gregory
21 owed Plaintiff a fiduciary duty as officers and directors of Plaintiff.
22

23 182. Defendants Gregory breached that duty on more than one occasion by failing
24 to place Plaintiff's financial interests above their own financial interests by converting
25 Plaintiff's funds for their own purpose.
26

27 183. Such breaches of their fiduciary duties were the actual and proximate cause
28 of harm to Plaintiff.
29

1 184. Plaintiff was financially harmed due to Defendants Gregory's fiduciary
2 breaches.
3

4 185. Defendants Gregory's breaches of their fiduciary duties were a substantial
5 factor in causing Plaintiff's harm.
6

7 186. Accordingly, Defendants Gregory are liable for damages to Plaintiff, the
8 exact amount to be proven at trial, but are expected to be in excess of Nine Hundred Sixty-
9 Four Thousand Four Hundred Eighty-Six Dollars (\$964,486.00).
10

11 187. According to Arizona case law, damages for breaches in fiduciary duties can
12 include punitive damages.
13

COUNT XI

Breach of "The 'Business Opportunity' Doctrine"

(Defendant Brent Gregory)

14 188. Plaintiff incorporates by reference all the preceding paragraphs of this
15 Complaint as if fully set forth herein.
16

17 189. The 'business opportunity' doctrine holds that a director or officer may not
18 seize for himself, to the detriment of his company, business opportunities in the company's
19 line of activities in which it has an interest or prior claim. *Tovrea Land & Cattle Co. v.*
20 *Linsenmeyer*, 412 P.2d 47, 100 Ariz. 107 (Ariz. 1966).

21 190. A breach of the 'business opportunity' doctrine depends upon whether the
22 corporation has a legally recognized interest, actual or in expectancy, in the property, or
23 whether the transaction by the director or officer may hinder or defeat the plans and
24 purposes of the corporation in carrying on or developing its legitimate and usual business."
25

1 *Zeckendorf v. Steinfeld*, 12 Ariz. 245, 100 P. 784; *Tovrea Land & Cattle Co. v.*
2 *Linsenmeyer*, 412 P.2d 47, 100 Ariz. 107 (Ariz. 1966).

3 191. Plaintiff had a legally recognized interest in its contracts and funds from
4 those contracts.

5 192. Defendant Brent Gregory, as an officer and director of CPS, was aware of
6 those contracts.

7 193. Defendant Brent Gregory's action to interfere with those contracts and to
8 switch them over to Defendant ESG and/or Innovative was a substantial interference with
9 Plaintiff's legally recognized interests.

10 194. Defendant Brent Gregory's actions substantially hindered Plaintiff's plans
11 and purposes in carrying on or developing its legitimate and usual business.

12 195. Plaintiff was financially harmed due to Defendant Brent Gregory's unlawful,
13 intentional, and fraudulent actions against Plaintiff's interests.

14 196. Defendant Brent Gregory's actions were a substantial factor in causing
15 Plaintiff's harm.

16 197. Plaintiff is entitled to recover damages resulting naturally and directly from
17 the harm in an amount to be proven at trial.

18 20 **COUNT XII**

19 21 **Breach of Contract – Non Compete Agreements**
22
23 **(Defendant Brent Gregory and Bonhila)**

24 198. Plaintiff incorporates by reference all the preceding paragraphs of this
25 Complaint as if fully set forth herein.

1 199. Plaintiff and Defendant Brent Gregory entered into an employment contract
2 in July 2007 regarding Defendant Brett Gregory's employment with Plaintiff CPS.
3

4 200. Plaintiff and Defendant Brent Gregory entered into a non-disclosure
5 agreement on October 23, 2008, regarding certain obligations Defendant Brent Gregory
6 had to Plaintiff.
7

8 201. On March 16, 2015, Defendant Bonhila agreed not to compete upon his
9 resignation.
10

11 202. Specifically, Defendants Brent Gregory and Bonhila wrongfully breached
12 said their respective agreement by forming and maintaining a competing business, and
13 subsequently competing with Plaintiff.
14

15 203. Additionally, Defendants Brent Gregory and Bonhila has held themselves
16 out as being a member of Defendant ESG, that said business is in direct competition with
17 Plaintiff.
18

19 204. Wherefore, Plaintiff has and will sustain an irreparable financial injury due
20 to loss of business due to said wrongful competition in violation of the terms of the
21 agreements.
22

23 205. Defendants Brent Gregory and Bonhila's breach of the non-compete clause
24 was a substantial factor in causing Plaintiff's harm.
25

26 206. Accordingly, Defendants Brent Gregory and Bonhila are liable in damages
27 to Plaintiff, the exact amount to be proven at trial, but are expected to be in excess of Seven
28 Hundred Fifty-Three Thousand, One Hundred Seventy-Seven Dollars (\$753,177.00).
29

1 207. Because this matter arises out of a contract action, the prevailing party is
2 entitled to attorneys' fees and costs pursuant to A.R.S. § 12-341 and A.R.S. § 12-341.01.
3

COUNT XIII

Breach of Contract

(Defendant Brent Gregory)

6 208. Plaintiff incorporates by reference all the preceding paragraphs of this
7 Complaint as if fully set forth herein.
8

9 209. Plaintiff and Defendant Brent Gregory entered into an employment contract
10 in July 2007 regarding Defendant Brett Gregory's employment with Plaintiff CPS.
11

12 210. Plaintiff and Defendant Brent Gregory entered into a valid, enforceable, and
13 binding employment contract.
14

15 211. Defendant Brent Gregory breached the contract by improperly and illegally
16 kept income derived from, or arising out of, the Plaintiff's business.
17

18 212. Defendant Brent Gregory breached the contract by submitting and
19 subsequently accepted improperly submitted travel expenses, medical and dental insurance
20 coverage, 401K benefits, and improper expenses which were expensed to Plaintiff.
21

22 213. Defendant Brent Gregory also breached the contract taking excess vacation
23 time in excess of two (2) weeks.
24

25 214. As a direct and proximate result of Defendant Brent Gregory's breach of
26 contract, Plaintiff has been damaged in the amount in excess of Eight Hundred Eighty-
Nine and Forty-Nine Dollars (\$884,049.00).
27
28

1 215. Plaintiff is entitled to the recovery of its attorneys' fees and costs incurred in
2 pursuing this action pursuant to A.R.S. § 12-341 and A.R.S. § 12-341.01.

3 **COUNT XIV**

4 **(Breach of the Covenant of Good Faith and Fair Dealing)**

5 **(Defendant Brent Gregory)**

6 216. Plaintiff hereby incorporates each and every allegation contained in the
7 previous paragraphs of this Complaint as though fully set forth herein.

8 217. In Arizona, a party to a contract has an implied duty to act fairly and in good
9 faith which is implied by law and need not be in writing.

10 218. This duty requires that neither party do anything that prevents the other party
11 from receiving the benefits of their agreement.

12 219. As set forth in greater detail above, Defendant Brent Gregory breached the
13 duty of good faith and fair dealing by denying Plaintiff the benefit of the employment
14 contract and the nondisclosure agreement that the parties entered into.

15 220. Plaintiff is entitled to recover damages resulting naturally and directly from
16 the breach in an amount to be proven at trial.

17 **COUNT XV**

18 **(Unjust Enrichment)**

19 **(All Defendants)**

20 221. Plaintiff re-alleges the allegations set forth in Paragraphs above and
21 incorporates same herein by reference.

1 222. At all times relevant to this litigation, Defendants owed a legal duty to
2 Plaintiff to not unfairly or unduly take advantage of Plaintiff or commit wrongful acts in
3 order to unjustly enrich him/her/their/itself at Plaintiff's expense or at the expense of
4 Plaintiff's property or financial interests.

5 223. Defendants unjustly enriched him/her/their/itself by wrongfully converting,
6 taking, and utilizing Plaintiff's property and financial interests.

7 224. Specifically, Defendants converted and otherwise defrauded Plaintiff of over
8 One Million Seven Hundred Thirty-Eight Thousand Six Hundred Sixty-Two Dollars
9 (\$1,738,662) through his/her/their/its wrongful actions.

11 225. Additionally, Defendants have refused to refund the funds to Plaintiff to
12 rectify Defendants' actions.

13 226. Defendants will be unjustly enrichment by retaining the funds rightfully
14 belonging to Plaintiff.

15 227. Defendants' unlawfully and fraudulent actions were the actual and proximate
16 cause of harm to Plaintiff.

18 228. Accordingly, Defendants are liable for damages to Plaintiff in an exact
19 amount to be proven at trial.

20 **Declaratory Judgment – Return of Intellectual Property**

21 **(Defendant Brent Gregory)**

22 229. Plaintiff hereby incorporates each and every allegation contained in the
23 previous paragraphs of this Complaint as though fully set forth herein.

1 230. Plaintiff seeks declaratory relief pursuant to the Uniform Declaratory
2 Judgment Act A.R.S. § 12-1831, et al. The rights, status, and legal relations of the parties
3 are affected by the dispute described herein.

4 231. Defendant Brent Gregory signed an Employee Confidentiality, Work
5 Product Assignment, Noncompetition and Non-Solicitation Agreement “Agreement” with
6 Plaintiff CPS in which he acknowledged and agree that all works created, whether patented,
7 trademarked, or copyrighted, were the sole and exclusive property of Plaintiff.
8

9 232. Defendant Brent Gregory is part owner of five (5) patents registered and co-
10 owned with Plaintiff CPS that were developed during Brent Gregory’s employment with
11 CPS.

12 233. Despite Plaintiff’s request to Defendant Brent Gregory to perform the
13 necessary tasks to sign over and transfer the patents to Plaintiff, Defendant Brent Gregory
14 has refused to do so.
15

16 234. Plaintiff seeks judicial assistance and an order requiring Defendant Brent
17 Gregory to transfer the five (5) different patents, described herein, to Plaintiff pursuant to
18 the Agreement he signed on October 23, 2008.
19

20 235. A judicial declaration is necessary and appropriate at this time so that
Plaintiff may ascertain with certainty its rights and duties.
21

22 236. Pursuant to A.R.S. 12-1831, et seq., A.R.S. § 47-2302, and U.C.C. Section
23 2-302, Plaintiff is entitled to a declaratory judgment that the five (5) patents co-owned by
24 Defendant Brent Gregory be transferred to Plaintiff.
25

1 237. Plaintiff is entitled to an award of reasonable attorney's fees pursuant to
2 A.R.S. 12-341.01.

3 **FURTHER REQUESTED RELIEF:**

4 **TEMPORARY RESTRAINING ORDER**

5 238. Plaintiff re-alleges the allegations set forth in Paragraphs above and
6 incorporates same herein by reference.

7 239. Plaintiff has an immediate need for a temporary restraining order to prevent
8 immediate and irreparable harm caused by the dissipation of assets by Defendants without
9 which Plaintiff could not be adequately compensated.

10 240. Plaintiff has an immediate need to:

11 (a) enjoin all Defendants from disposing of any of the Seven Hundred Fifty-
12 Three Thousand, One Hundred Seventy-Seven Dollars (\$753,177.00) that
13 Defendants wrongfully deprived Plaintiff of through his/her/their/its actions;

14 (b) requires Defendants to identify with specificity where he/she/they/it has
15 deposited said funds; and

16 (c) enjoin Defendants from withdrawing or otherwise transferring or
17 dissipating said funds and the contents of any and all such accounts until such
18 time as the Seven Hundred Fifty-Three Thousand, One Hundred Seventy-
19 Seven Dollars (\$753,177.00) is repaid to Plaintiff.

20 241. Plaintiff has an immediate need to:

21 (a) enjoin Defendants Gregory from disposing of any of the Nine Hundred
22 Sixty-Four Thousand and Four Hundred Eighty-Six Dollars (\$964,486.00)

1 that Defendants Gregory wrongfully deprived Plaintiff of through
2 his/her/their/its actions;

3 (b) requires Defendants Gregory to identify with specificity where
4 he/she/they/it has deposited said funds; and

5 (c) enjoin Defendants Gregory from withdrawing or otherwise transferring
6 or dissipating said funds and the contents of any and all such accounts until
7 such time as the Nine Hundred Sixty-Four Thousand and Four Hundred
8 Eighty-Six Dollars (\$964,486.00) is repaid to Plaintiff.

9
10 242. The greater injury will result from refusing to grant a temporary restraining
11 order than by granting it.

12 243. The issuance of a temporary restraining order will not substantially harm any
13 other interested persons.

14 244. The issuance of a temporary restraining order will restore the parties to their
15 status as it existed prior to the wrongful conduct of Defendants and/or will enable such
16 restoration to take place.

17 245. Plaintiff has a substantial likelihood of prevailing on the merits.

18 246. The temporary restraining order sought is reasonably suited to abate all of
19 Defendants' unjust receipt and retention of the Seven Hundred Fifty-Three Thousand, One
20 Hundred Seventy-Seven Dollars (\$753,177.00) obtained pursuant to his/her/their/its
21 wrongful and unlawful conduct.

22 247. The temporary restraining order sought is reasonably suited to abate
23 Defendant Gregorys' unjust receipt and retention of the Nine Hundred Sixty-Four
24

1 Thousand and Four Hundred Eighty-Six Dollars (\$964,486.00) obtained pursuant to
2 his/her/their/its wrongful and unlawful conduct.

3 248. The temporary restraining order will not adversely affect the public interest.

4 PRELIMINARY INJUNCTIVE RELIEF

5 249. Plaintiff re-alleges the allegations set forth in Paragraphs above and
6 incorporates same herein by reference.

7 250. Plaintiff has an immediate need for injunctive relief to prevent immediate
8 and irreparable harm caused by the dissipation of assets by Defendant without which
9 Plaintiff could not be adequately compensated.

10 251. Plaintiff has an immediate need to:

11 (a) enjoin Defendants from disposing of any of the Seven Hundred Fifty-
12 Three Thousand, One Hundred Seventy-Seven Dollars (\$753,177.00) that
13 Defendants wrongful and unlawfully acquired at Plaintiff's expense;

14 (b) enjoin Defendants Gregory from disposing of any of the Nine
15 Hundred Sixty-Four Thousand and Four Hundred Eighty-Six Dollars
16 (\$964,486.00) that Defendants wrongful and unlawfully acquired at
17 Plaintiff's expense;

18 (c) enjoin Defendants Gregory from withdrawing or otherwise
19 transferring or dissipating said funds and the contents of any and all such
20 accounts until such time as the Seven Hundred Fifty-Three Thousand, One
21 Hundred Seventy-Seven Dollars (\$753,177.00) is repaid to Plaintiff;

1 (d) enjoin Defendants from withdrawing or otherwise transferring or
2 dissipating said funds and the contents of any and all such accounts until such
3 time as the Nine Hundred Sixty-Four Thousand and Four Hundred Eighty-
4 Six Dollars (\$964,486.00) is repaid to Plaintiff; and
5 (e) require Defendants to identify with specificity where he/she/they/it
6 has deposited said funds.

7 252. The greater injury will result from refusing to grant injunctive relief than by
8 granting it.

9 253. The issuance of injunctive relief will not substantially harm any other
10 interested persons.

11 254. The issuance of injunctive relief will restore the parties to their status as
12 existed prior to the Defendants' wrongful conduct and/or will enable such restoration to
13 take place.

14 255. Plaintiff has a substantial likelihood of prevailing on the merits.

15 256. The injunctive relief sought is reasonably suited to abate Defendants' unjust
16 enrichment.

17 257. The injunctive relief will not adversely affect the public interest.

18 **PERMANENT INJUNCTIVE RELIEF**

19 258. Plaintiff re-alleges the allegations set forth in Paragraphs above and
20 incorporates same herein by reference.

1 259. Plaintiff has an immediate need for injunctive relief to prevent immediate
2 and irreparable harm caused by the dissipation of assets by Defendants without which
3 Plaintiff could not be adequately compensated.

4 260. Plaintiff has an immediate need to:

5 (a) enjoin Defendants from disposing of any of the Seven Hundred Fifty-
6 Three Thousand, One Hundred Seventy-Seven Dollars (\$753,177.00) that
7 Defendants wrongful and unlawfully acquired at Plaintiff's expense;

8 (b) enjoin Defendants Gregory from disposing of any of the Nine
9 Hundred Sixty-Four Thousand and Four Hundred Eighty-Six Dollars
10 (\$964,486.00) that Defendants wrongful and unlawfully acquired at
11 Plaintiff's expense;

12 (c) enjoin Defendants from withdrawing or otherwise transferring or
13 dissipating said funds and the contents of any and all such accounts until such
14 time as the Seven Hundred Fifty-Three Thousand, One Hundred Seventy-
15 Seven Dollars (\$753,177.00) is repaid to Plaintiff;

16 (d) enjoin Defendants Gregory from withdrawing or otherwise
17 transferring or dissipating said funds and the contents of any and all such
18 accounts until such time as the Nine Hundred Sixty-Four Thousand and Four
19 Hundred Eighty-Six Dollars (\$964,486.00) is repaid to Plaintiff; and

20 (e) require Defendants to identify with specificity where he/she/they/it
21 has deposited said funds.

261. The greater injury will result from refusing to grant injunctive relief than by granting it.

262. The issuance of injunctive relief will not substantially harm any other interested persons.

263. The issuance of injunctive relief will restore the parties to his/her/their/its status as existed prior to Defendants' unjust enrichment and/or will enable such restoration to take place.

264. Plaintiff has a substantial likelihood of prevailing on the merits.

265. The injunctive relief sought is reasonably suited to abate Defendants' unjust enrichment.

266. The injunctive relief will not adversely affect the public interest.

(Constructive Trust – All Defendants)

267. As a proximate result of the Defendants fraudulent misrepresentations, concealments, conversion, and otherwise wrongful conduct as alleged herein, Plaintiff was financially harmed.

268. Defendants' actions were a substantial factor in causing Plaintiff's harm.

269. By reason of the fraudulent and otherwise wrongful manner in which the Defendants obtained Plaintiff's property and his/her/their/its alleged right, claim or interest in and to Plaintiff's property, Defendants, and each of them, have no legal or equitable right, claim or interest therein, but, instead, Defendants are involuntary trustees holding said property and profits therefrom in constructive trust for Plaintiff CPS with the duty to convey the same to Plaintiff forthwith.

1 (Punitive Damages – All Defendants)
2

3 270. Plaintiff incorporates by reference all the preceding paragraphs of this
4 Complaint as if fully set forth herein.
5

6 271. At all relevant times, Defendants owed Plaintiff a duty to act with due care
7 and regard for Plaintiff's rights and interests, including Plaintiff's property and financial
8 interests.
9

10 272. Defendants breached that duty of due care on more than one occasion and
11 such breaches constitute outrageous conduct and reckless disregard of the rights and
12 interests, including property and financial interests, of Plaintiff.
13

14 273. Defendants' outrageous conduct towards Plaintiff was done with malice or
15 bad motives or reckless indifference to Plaintiff's interests.
16

17 274. Accordingly, Defendants are liable for punitive damages to Plaintiff in an
18 amount to be proven at trial.
19

20 **PRAYER FOR RELIEF**
21

22 **WHEREFORE**, Plaintiff prays for judgment against Defendants Energy Service
23 Group, LLC, Innovative Energy, LLC, Brent Gregory, Maria Gregory, Christopher
24 Bonilha, Evellyn Ancheschi, and Brent Allen Gregory and Maria Rosario Gregory, as
25 Trustees of the Montaldeo Revocable Trust established on July 25, 2012, jointly and
severely, as follows:
26

27 A. Enjoin Defendants, both temporarily and permanently, from disposing of any of
28 the Seven Hundred Fifty-Three Thousand, One Hundred Seventy-Seven Dollars
29 (\$753,177.00) funds that were unlawfully taken from Plaintiff;
30

1 **B.** Enjoin Defendants Gregory, both temporarily and permanently, from disposing
2 of any of the Nine Hundred Sixty-Four Thousand and Four Hundred Eighty-Six
3 Dollars (\$964,486.00) funds that were unlawfully taken from Plaintiff;

4 **C.** Require Defendants to identify with specificity where he/she/they have
5 deposited said funds;

6 **D.** Enjoin Defendants, both temporarily and permanently, from withdrawing or
7 otherwise transferring or dissipating said funds and the contents of any and all
8 such accounts until such time as the Seven Hundred Fifty-Three Thousand, One
9 Hundred Seventy-Seven Dollars (\$753,177.00) in unlawfully obtained funds are
10 repaid to Plaintiff with interest;

11 **E.** Enjoin Defendants Gregory, both temporarily and permanently, from
12 withdrawing or otherwise transferring or dissipating said funds and the contents
13 of any and all such accounts until such time as the Nine Hundred Sixty-Four
14 Thousand and Four Hundred Eighty-Six Dollars (\$964,486.00) in unlawfully
15 obtained funds are repaid to Plaintiff with interest;

16 **F.** For actual damages in an amount to be proven at trial;

17 **G.** For consequential and incidental damages in an amount to be proven at trial;

18 **H.** For the imposition of a constructive trust over all monies converted from
19 Plaintiff and any property purchased therewith and/or proceeds;

20 **I.** For a declaration that Defendants hold the converted funds as constructive
21 trustees for the benefit of the Plaintiff;

22

23

24

25

26

J. Trebled damages for the RICO cause of actions; against Defendants, each and every one of them, jointly and severally.

K. For an order requiring Defendant Brent Gregory to sign over all intellectual property obtained during his employment with Plaintiff, to Plaintiff.

L. For interest at the legal rate from the date of entry of judgment until paid in full;

M. For punitive damages to be determined at trial;

N. Attorney's fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E);

O. For reasonable costs and attorneys' fees pursuant to A.R.S. § 12-341 and A.R.S. § 12-341.01; and

P. For such other and relief as the Court deems proper.

RESPECTFULLY SUBMITTED this day 13th of September, 2021.

SADDLEWORTH LAW, PLLC

/s/ *Craig W. Broadbent*

Craig W. Broadbent, Esq.

Greg W. Broadbent,
Lisa M. Hanger, Esq.

Lisa M. Hainger, Esq.
4742 N. 24th St. Suite 300

Phoenix, Arizona 8501